

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

IN RE PORK ANTITRUST
LITIGATION

This Document Relates To:
Direct Purchaser Plaintiff and Direct
Action Plaintiff Actions

No. 0:18-cv-01776

Hon. John R. Tunheim
Magistrate Judge Hildy Bowbeer

**[PROPOSED] ORDER GRANTING DIRECT PURCHASER PLAINTIFFS’
MOTION FOR ENTRY OF A SET-ASIDE ORDER**

This matter coming to be heard on Direct Purchaser Plaintiffs’ Motion for Entry of a Set-Aside Order, due notice having been given and the Court being fully advised in the premises,

IT IS HEREBY ORDERED THAT:

1. Direct Purchaser Plaintiffs’ Motion is granted.
2. In the event a direct purchaser that files its own complaint¹ (“DAP”) after October 20, 2020 obtains a settlement or judgment in an action filed in this Court or transferred to this court related to claims arising from Defendants’ alleged conspiracy and combination to fix, raise, maintain, and stabilize the price of Pork, Defendants shall establish and thereafter maintain an insured escrow account entitled, “In re Pork Antitrust Litigation Direct Purchaser Plaintiff Class Fee and Expense Account.”

¹ For avoidance of doubt, this Order does not apply to any DAP that files an initial complaint prior to October 20, 2020, but then files an amended complaint after October 20, 2020.

3. For any settlement or judgment obtained by such a DAP, Defendant(s) shall set aside and place into the In re Pork Antitrust Litigation Direct Purchaser Plaintiff Class Fee and Expense Account 10% of the total monetary value of such settlement or judgment.

4. No amounts shall be paid from the In re Pork Antitrust Litigation Direct Purchaser Plaintiff Class Fee and Expense Account unless and until approved by the Court.

5. The set-aside funds shall be available, at the Court's discretion, to pay attorneys' fees and expenses incurred by DPP Counsel for their common benefit work, subject to a showing of entitlement to such payments.

6. DPP Counsel and counsel for the DAP shall meet and confer and attempt in good faith to agree on an appropriate allocation of the set-aside funds. If counsel reach agreement, they shall report to the Court and seek Court approval of the agreed-upon allocation. If no agreement is reached, DPP Counsel shall file with the Court within 14 days of reaching impasse an application for compensation supported by a showing of relevant common benefit work performed and expenses incurred. Any opposition(s) may be filed within 14 days of the filing of the initial application, with any replies (if permitted by the Court) due no more than 7 days later.

7. Any set-aside funds not paid to DPP Counsel for common benefit work shall be remitted pro rata to the DAP from whose settlements or judgments the set-aside funds were withheld.

8. Except as provided in Paragraph 2 above, this Order shall apply to all actions reassigned or otherwise transferred to this Court that assert claims on behalf of direct purchasers of Pork products that are the same or substantially similar to those asserted by

Direct Purchaser Plaintiffs in this litigation, and shall continue to apply after any remand of such actions.

9. Except as provided in Paragraph 2 above, the scope of this Order is without prejudice to Direct Purchaser Plaintiffs' right to seek a sequestration order against settlements or judgments in untransferred federal cases or state cases if warranted by the facts.

10. Nothing in this Order shall prevent DPP Counsel from applying for and receiving an award of attorneys' fees and expenses for any recovery obtained on behalf of the Direct Purchaser Plaintiff Class. DPP Counsel are directed to make a copy of this Order available on the website established in connection with their efforts to notify the Direct Purchaser Plaintiff Class of the settlement between the Direct Purchaser Plaintiffs and Defendant JBS USA Food Company.

IT IS SO ORDERED.

Dated: _____, 2021

The Honorable Hildy Bowbeer
United States Magistrate Judge